

**NORMAN PLANNING COMMISSION  
REGULAR SESSION MINUTES**

**MARCH 8, 2012**

The Planning Commission of the City of Norman, Cleveland County, State of Oklahoma, met in Regular Session in the Council Chambers of the Norman Municipal Building, 201 West Gray Street, on the 8<sup>th</sup> day of March 2012. Notice and agenda of the meeting were posted at the Norman Municipal Building and online at <http://www.normanok.gov/content/boards-commissions> twenty-four hours prior to the beginning of the meeting.

Vice Chairman Chris Lewis called the meeting to order at 6:30 p.m.

\* \* \*

Item No. 1, being:  
**ROLL CALL**

**MEMBERS PRESENT**

Dave Boeck  
Jim Gasaway  
Cynthia Gordon  
Diana Hartley  
Tom Knotts  
Chris Lewis

**MEMBERS ABSENT**

Curtis McCarty  
Robertta Pailles  
Andy Sherrer

A quorum was present.

**STAFF MEMBERS PRESENT**

Susan Connors, Director, Planning &  
Community Development  
Shawn O'Leary, Director, Public Works  
Department  
Doug Koscinski, Manager, Current Planning  
Division  
Ken Danner, Subdivision Development  
Manager  
Roné Tromble, Recording Secretary  
Jane Hudson, Planner II  
Leah Messner, Asst. City Attorney  
Larry Knapp, GIS Analyst

\* \* \*

Item No. 2, being:

**CONSENT DOCKET**

Vice Chairman Lewis announced that the Consent Docket is designed to allow the Planning Commission to approve a number of items by one motion and vote. The Consent Docket consisted of the following items:

Item No. 3, being:

**APPROVAL OF THE FEBRUARY 9, 2012 REGULAR SESSION MINUTES**

Item No. 4, being:

**COS-1112-4 – CONSIDERATION OF A NORMAN RURAL CERTIFICATE OF SURVEY SUBMITTED BY TRAVIS SPEARS (VMI INSPECTION, INC.) FOR TRAVIS ACRES, GENERALLY LOCATED ON THE WEST SIDE OF 84<sup>TH</sup> AVENUE N.E. APPROXIMATELY ¼ MILE SOUTH OF EAST INDIAN HILLS ROAD.**

Item No. 5, being:

**PP-1112-10 – CONSIDERATION OF A PRELIMINARY PLAT SUBMITTED BY MIKE AND CINDY MILLIGAN (MORRIS ENGINEERING) FOR MILLIGAN ADDITION, GENERALLY LOCATED NORTH OF ROCK CREEK ROAD BETWEEN 12<sup>TH</sup> AVENUE N.W. AND THE RAILROAD TRACKS.**

\*

In addition, Vice Chairman Lewis suggested that the postponement of the following item be included on the Consent Docket.

Item No. 6, being:

**O-1112-31 – ROCK CREEK YOUTH CAMP, INC. REQUESTS SPECIAL USE FOR A RECREATIONAL CAMP FOR PROPERTY CURRENTLY ZONED A-2, RURAL AGRICULTURAL DISTRICT, LOCATED AT 4606 E. ROCK CREEK ROAD.**

\*

Vice Chairman Lewis asked if any member of the Planning Commission wished to remove any item from the Consent Docket. There being none, he asked if anyone in the audience wished to remove any item from the Consent Docket. Harold Heiple requested that Item No. 5 be removed.

*Jim Gasaway moved to place approval of Item Nos. 3 and 4, and postponement of Item No. 6 on the Consent Docket and approve by one unanimous vote. Diana Hartley seconded the motion.*

There being no further discussion, a vote on the motion was taken with the following result:

YEAS	Dave Boeck, Jim Gasaway, Cynthia Gordon, Diana Hartley, Tom Knotts, Chris Lewis
NAYES	None
ABSENT	Curtis McCarty, Roberta Pailles, Andy Sherrer

Ms. Tromble announced that the motion, to place approval of Item Nos. 3 and 4, and postponement of Item No. 6 on the Consent Docket and approve by one unanimous vote, passed by a vote of 6-0.

\* \* \*

Item No. 3, being:

**APPROVAL OF THE FEBRUARY 9, 2012 REGULAR SESSION MINUTES**

This item was approved as submitted on the Consent Docket by a vote of 6-0.

\* \* \*

Item No. 4, being:

**COS-1112-4 – CONSIDERATION OF A NORMAN RURAL CERTIFICATE OF SURVEY SUBMITTED BY TRAVIS SPEARS (VMI INSPECTION, INC.) FOR TRAVIS ACRES, GENERALLY LOCATED ON THE WEST SIDE OF 84<sup>TH</sup> AVENUE N.E. APPROXIMATELY ¼ MILE SOUTH OF EAST INDIAN HILLS ROAD.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Location Map
2. Norman Rural Certificate of Survey
3. Staff Report
4. Request for Variance

The Norman Rural Certificate of Survey for TRAVIS ACRES was approved on the Consent Docket by a vote of 6-0.

\* \* \*

Item No. 5, being:

**PP-1112-10 – CONSIDERATION OF A PRELIMINARY PLAT SUBMITTED BY MIKE AND CINDY MILLIGAN (MORRIS ENGINEERING) FOR MILLIGAN ADDITION, GENERALLY LOCATED NORTH OF ROCK CREEK ROAD BETWEEN 12<sup>TH</sup> AVENUE N.W. AND THE RAILROAD TRACKS.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Location Map
2. Preliminary Plat
3. Staff Report
4. Site Plan

**PRESENTATION BY STAFF:**

1. Mr. Danner reported this property is zoned Light Industrial. The applicant has a trucking business. A fire hydrant will be installed for fire protection. There is an existing water line on Rock Creek Road and on 12<sup>th</sup> Avenue N.W. The proposal is to bring a water line with a fire hydrant off the 12<sup>th</sup> Avenue water line. Rock Creek Road was constructed several years ago, and at this time it needs to be widened by 4'. A 5' wide sidewalk will be required adjacent to Rock Creek Road.

2. Mr. Knotts asked if the trucking company will be the only anticipated use of the property. Mr. Danner responded that the property that the applicant owns is intended for the trucking business.

**PRESENTATION BY THE APPLICANT:**

1. Ross Morris, Morris Engineering, and Mike Milligan, the applicant, were available to answer questions.

**PRESENTATION BY THE AUDIENCE:**

1. Harold Heiple, 218 E. Eufaula – I'm representing Forest Business Supply Enterprises. Forest owns and operates several building supply businesses across 12<sup>th</sup> Avenue immediately east of this particular property. Because a number of large trucks will come in and out of here daily, my client is concerned about dust and noise. The preliminary plat, which is on page 5-6 of your book, shows no fencing. I've given you copies of the I-1 ordinance. If you'd look at the bottom of the first page of the ordinance, it is obvious that impoundment yards must be completely screened by an opaque 8' fence. When I visited the site, the owner told me he anticipated using chain link fence. Chain link does nothing to divert or to stop either odors or dust, and I don't think there's any debate about the amount of fumes that can be generated by diesel trucks operating in and out daily of this particular operation. If you'll look at the plat, you'll see that there is a relatively small amount of asphalt parking shown at the entrance on the south; the balance is called gravel storage upon which these trucks will be parked or come in and out of in order to serve the applicant's business. Certainly, the applicant is zoned for that type of business. But I want to point out, not only the fact that at the bottom of the first page of the ordinance, I-1, that there is a call for an 8' opaque fence. If you'll look on the second page of the ordinance I passed out, after sub-paragraph (d), toward the bottom, you've got this statement: "Provided, however, the uses permitted under this section" – and that's all of the uses permitted – "shall be conducted in such a manner that no dust or noxious fumes or odors will be emitted beyond the property line of the lot on which the use is located and no ... equipment shall be kept, stored ... outside ... of an enclosed building ... unless it is ... screened by ... fences ... so that it cannot be seen from a public street." And we are asking you to – whatever recommendation you make with respect to the preliminary plat – to pass on your recommendation that there be an 8' opaque fence on the north side, south side, and the east side of the property. We don't have any quarrel with the west side because it abuts the railroad track. But with the prevailing winds and the particular location, we would ask that the noise and the dust item be addressed. I do call your attention to one other thing with respect to the plat. In the upper right-hand corner there is some fine print about the Water Quality Protection Zones

and the recommendation is those WQPZ limits will not encroach the property as long as the engineered solutions are installed and perpetually monitored and maintained to their original condition. So we don't have just an ordinary hard surface commercial site involved here. And we ask not to stop the man from doing what he wants to do on the property, but to give the kind of protection to the neighbors from the prevailing winds that this particular I-1 ordinance contemplates. Thank you very much.

2. Ross Morris, representing the applicant, stated that they haven't asked for any variances and they are going to comply with the ordinance and zoning. His client intends to be a good neighbor. There are challenges with the concrete plant and some other things in that area.

3. Mr. Boeck asked if there is a difference between how it is being used now and how it will be used. Mr. Morris responded that it is currently raw ground.

4. Mr. Boeck asked what kind of trucks will be using the site. Mr. Morris responded that the applicant has a sand trucking operation. Mr. Milligan indicated the concrete plant is due north of this parcel. He runs a dump truck service. This yard will hold rock, and they will occasionally load a truck with the rock. The trucks will normally leave in the morning and return in the evening. There will be a shop to be able to work on the equipment.

5. Mr. Gasaway asked how many trucks will be coming and going each day. Mr. Milligan stated that he has nine dump trucks. They generally leave once in the morning and come back once in the afternoon. Periodically one or two will come in during the day to be loaded with rock or something. The yard will be set up for homeowners to be able to come in to get a load of screened topsoil or things of that nature.

6. Mr. Knotts asked if materials will be stored on-site. Mr. Milligan responded affirmatively. Mr. Knotts asked if those materials will be contained with concrete barriers. Mr. Milligan said there will be concrete barriers. They will have a watering device to control dust that may be created on the property.

**DISCUSSION AND ACTION BY THE PLANNING COMMISSION:**

*Tom Knotts moved to recommend approval of the Preliminary Plat for MILLIGAN ADDITION, with the proviso that the I-1 zoning ordinance be followed, to the City Council. Diana Hartley seconded the motion.*

There being no further discussion, a vote on the motion was taken with the following result:

YEAS	Dave Boeck, Jim Gasaway, Cynthia Gordon, Diana Hartley, Tom Knotts, Chris Lewis
NAYES	None
ABSENT	Curtis McCarty, Roberta Pailles, Andy Sherrer

Ms. Tromble announced that the motion, to recommend approval of the Preliminary Plat for MILLIGAN ADDITION to the City Council, passed by a vote of 6-0.

\* \* \*

Item No. 6, being:

**O-1112-31 – ROCK CREEK YOUTH CAMP, INC. REQUESTS SPECIAL USE FOR A RECREATIONAL CAMP FOR PROPERTY CURRENTLY ZONED A-2, RURAL AGRICULTURAL DISTRICT, LOCATED AT 4606 E. ROCK CREEK ROAD.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Location Map
2. Request for Postponement

This item was postponed for one month as a part of the Consent Docket by a vote of 6-0.

\* \* \*

Item No. 7, being:

**GID-1112-55 – ROGER COX REQUESTS AMENDMENT TO THE APPROVED SITE PLAN TO ALLOW A SEASONAL SNOW CONE STAND TO BE LOCATED AT 2307 E. LINDSEY STREET.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Location Map
2. Staff Report
3. Aerial Photo
4. Photo of the Trailer
5. Trailer Floor Plan
6. Email re Restroom Use

**PRESENTATION BY STAFF:**

1. Ms. Hudson reported that the application is to amend the approved site plan at 2307 East Lindsey Street. The existing zoning is C-1. To the north is A-2 and some park land, with apartments further north. On the south the zoning is A-2, with an undeveloped area, and apartments further south with some other housing developments. There is a strip mall on the site. The applicant will be installing some asphalt to park his trailer on. There is a gas station at the corner of 24<sup>th</sup> Avenue S.E. and Lindsey Street. There is additional parking on the site that customers will be able to utilize. To the west of the property are an automobile shop, a daycare center, and more apartments. The Smilze Hair Salon in the strip mall is the business that will allow them to use the restrooms. The applicant said he would probably skirt the trailer unit to conceal the tires, and he will be building a bench-like area around the tongue of the trailer for customers to use. The applicant said he will be taking the trailer off the site a couple of times during the summer to go to special events, and then will return to this site. There don't appear to be any issues for the surrounding businesses. Staff supports the request to amend the approved site plan and authorize placement of the unit for the six-month period.

2. Mr. Boeck asked if this will be perpetual. Ms. Hudson responded that the applicant will be allowed to use the site for six months, and then the use has to be gone for six months. Typically they set up in the same place every summer. They come in every year to renew their application through the Building Department, but they do not have to come back to the Planning Commission.

**PRESENTATION BY THE APPLICANT:**

1. Roger Cox, 9800 Storm King Road, the applicant – was available to answer questions.

2. Ms. Gordon asked whether the hours of operation of the snow cone stand would be the same as the hair salon. Mr. Cox responded that they will have the same hours of operation.

3. Ms. Gordon asked whether there will be any parking on the new asphalt slab that is being installed. Mr. Cox said the primary parking lot will be at the strip mall, but there is room for a couple of cars on the new asphalt. They will encourage people to park at the strip mall parking lot.

4. Ms. Gordon asked if there is any use for the asphalt during the time the snow cone stand is not occupying it. Mr. Cox indicated it will remain there as a flat open slab. They will be placing a power pole with a security light on it for electrical power on the north end of the asphalt slab.

**DISCUSSION AND ACTION BY THE PLANNING COMMISSION:**

1. Mr. Boeck commented that, being an architect, he thinks of aesthetics. He would like to figure out some way to come up with a design process that doesn't make it too expensive to come up with something so a power pole with a light wouldn't be necessary for such sites. Ms.



Connors explained that, because of the lighting ordinance, the security light will not be allowed; a full-cutoff fixture or other option will be necessary.

*Dave Boeck moved to recommend approval of the site plan amendment for GID-1112-55 to the City Council. Tom Knotts seconded the motion.*

There being no further discussion, a vote on the motion was taken with the following result:

YEAS	Dave Boeck, Jim Gasaway, Diana Hartley, Tom Knotts, Chris Lewis
NAYES	Cynthia Gordon
ABSENT	Curtis McCarty, Roberta Pailes, Andy Sherrer

Ms. Tromble announced that the motion to recommend approval of GID-1112-55 to the City Council passed by a vote of 5-1.

\* \* \*

Item No. 8, being:

**GID-1112-56 – ADRIAN BUENDIA, DBA ESKIMO SNO, REQUESTS AMENDMENT TO THE APPROVED SITE PLAN TO ALLOW A SEASONAL SNOW CONE STAND TO BE LOCATED AT 1100 EAST CONSTITUTION.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Location Map
2. Staff Report
3. Statement of Request
4. Site Plan
5. Aerial Photo
6. Letter re Restroom Use
7. Photos

**PRESENTATION BY STAFF:**

1. Ms. Hudson reported this is an amendment to the approved site plan at the corner of Constitution and Classen. The current zoning is C-2, with C-2 to the north, the railroad on the west, and Classen Boulevard on the east. There is a Seven-11 and a liquor store across the street to the north. To the east, across Classen, is a mobile home park. The subject property has a credit union, hair salon, bakery, and Family Video, which owns the entire site. To the west of the railroad tracks there are a number of apartment complexes and University housing. The site plan shows the snow cone stand is proposed to be located in the northwest corner, away from the main building. This will be a temporary location for six months; it will have to be removed from the site. Staff didn't feel there were any issues with the location on the site and there is plenty of parking in the area.

**PRESENTATION BY THE APPLICANT:**

1. Adrian Buendia, 4321 Lorington Way, the applicant – My wife and I are the owners of Eskimo Sno in Norman, and we have been a shaved ice establishment since 1999. Right now we have the only operational snow cone stand in the City of Norman, located at 1724 West Lindsey, which has been in operation since the summer of 1999. The building that we would like to put at 1100 East Constitution is one of our original buildings, which used to be located on Alameda and in Robinson Crossing. We sold it and college students located close to Bank of America last summer, and after a week of being opened they called and told us it was a lot of work, and they sold it back to us. We also have indoor stores in Norman, with one at 867 12<sup>th</sup> Avenue N.E. and another at 1228 North Interstate Drive. Those are our commissaries where we make all of our syrups, and they are open year around. We have an extra stand and we have heard a need from the OU community that they would like a stand closer to the University. In this area there are multiple apartment complexes and we got permission from Family Video for a lease for the summer from April to September to operate a snow cone stand there. The place we want to put it is right in front of the OU Federal Credit Union. There is an existing electric pole there that we can connect power to. The stand is licensed from last summer by the City of Norman. We remove our stands after six months, and put them back around mid-March. The Lindsey stand is open from April to September. We usually have a table next to the stand for people to eat their snow cones at and a freezer from Redi-Ice that provides the ice. Our stands are checked by the Health Department. Family Video is our sponsoring business and their hours of operation are 10:00 a.m. to midnight; our hours are usually noon to 11:00 p.m.

**DISCUSSION AND ACTION BY THE PLANNING COMMISSION:**

*Jim Gasaway moved to recommend approval of the site plan amendment for GID-1112-56 to the City Council. Diana Hartley seconded the motion.*

There being no further discussion, a vote on the motion was taken with the following result:

YEAS

Dave Boeck, Jim Gasaway, Cynthia Gordon, Diana Hartley,  
Tom Knotts, Chris Lewis

NAYES  
ABSENT

None  
Curtis McCarty, Roberta Pailles, Andy Sherrer

Ms. Tromble announced that the motion to recommend approval of GID-1112-56 to the City Council passed by a vote of 6-0.

\* \* \*

Item No. 9, being:

**GID-1112-57 – VONDAH STOCKBRIDGE AND JOSEPH SEAY REQUEST AMENDMENT TO THE APPROVED SITE PLAN TO ALLOW AN ICE HOUSE AT 1310 ALAMEDA STREET.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Location Map
2. Staff Report
3. Site Plan
4. Aerial Photo
5. Photo of Ice House

**PRESENTATION BY STAFF:**

1. Ms. Hudson reported this application is for an amendment to the existing site plan at 1310 East Alameda Street. This is not a temporary facility; it is a permanent facility. The current zoning of this and surrounding properties is C-2. Across the street to the north is Homeland, with Chelinos to the east of it. To the east of the site is a property currently undergoing renovations to become a coin laundry. There is a liquor store to the east of that, and apartment complexes on the south side of Alameda, and some single-family homes and commercial uses on the north side of Alameda to the east. To the west is a Jiffy Lube, Domino's Pizza and the corner of Alameda and 12<sup>th</sup> Avenue N.E. The ice house will be a permanent unit and will be hooked up to City water. There is a photograph of an example of an ice house, but the signage that is shown on that photo would not be approved in Norman. For this building, they would be allowed 48 square feet of signage. The ice house would also be required to have 80% masonry façade coverage. Staff recommends approval and does not feel there would be any problems with this location. The owners of the ice house also own the coin laundry that is going to open.

**PRESENTATION BY THE APPLICANT:**

1. Blaine Nice, 100 North Broadway, Oklahoma City, representing the applicants – The photo of the ice house is not within the city limits of Norman, and is not in compliance with the Norman code. The applicant understands the requirements they are going to have to meet with regard to masonry and signage and they are willing to comply with that. The applicant is available to answer any questions.

**DISCUSSION AND ACTION BY THE PLANNING COMMISSION:**

*Jim Gasaway moved to recommend approval of the site plan amendment for GID-1112-57 to the City Council. Cynthia Gordon seconded the motion.*

There being no further discussion, a vote on the motion was taken with the following result:

YEAS	Dave Boeck, Jim Gasaway, Cynthia Gordon, Diana Hartley, Tom Knotts, Chris Lewis
NAYES	None
ABSENT	Curtis McCarty, Roberta Pailles, Andy Sherrer

Ms. Tromble announced that the motion to recommend approval of GID-1112-57 to the City Council passed by a vote of 6-0.

\* \* \*

Item No. 10, being:

**O-1112-30 – AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING SECTION 19-602 OF THE CODE OF THE CITY OF NORMAN TO ALLOW CONCURRENT CONSTRUCTION IN RESIDENTIAL DEVELOPMENT; AND PROVIDING FOR THE SEVERABILITY THEREOF.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Staff Report
2. Annotated Ordinance No. O-1112-30

**PRESENTATION BY STAFF:**

1. Mr. O'Leary – I am here because the Public Works Department manages the platting process, and with that comes the concurrent construction and public improvement element of that process. This item came to our attention in December 2011 from the Norman Developers Council and the builders group here in Norman. Their goal was to expedite development; they want it to go faster – time is money – so if we can expedite the development process, particularly in residential subdivisions, that tends to stimulate the economy for both those owners and developers as well as the community itself. We met with the Council Planning and Community Affairs Committee on January 5 and got a green light to go forward and do some research and develop some language. We did that really quickly. I want to acknowledge the good work of Mr. Heiple and his group and our staff and our Legal Department who put together a draft pretty quickly. What we found is that Norman is on the outside of policy. Oklahoma City, Moore, and Midwest City all have some form of concurrent construction in residential subdivisions, so we are a little bit of the odd duck at this time, although their changes are recent as well. We do allow concurrent construction, and have for some time, of commercial and industrial subdivisions, so it is just the residential element that we have not done, and that is what is contained in the language tonight. We brought this forward to the full Council in a study session on February 21, and the Council seemed very comfortable with this concept and asked us to bring it forward through the formal process, and that's why we're here tonight.

What we're talking about is Chapter 19 of the Code of Ordinances, which is the Subdivision Regulations, and this is contained in section 19-602C, Article VI, which is a section that is entitled "Exceptions for Issuing a Building Permit." You've got an annotated version in your book. Again, the key here is this would allow concurrent construction in residential subdivisions, which – for those who aren't familiar with the term – essentially means that the private construction of the homes would be happening concurrently, or simultaneously, with the construction of the public improvements. What public improvements are we talking about? We're talking about streets, storm drainage systems, water systems, sanitary sewer systems, and of course those quasi-public systems: the gas lines, the power systems, cable TV, AT&T phone lines, and that sort of thing. Today those things are not happening simultaneously. The public improvements go in first, we certify the plat, and then the private homes can begin after that. So we're talking about allowing those two things to be happening concurrently, and you can imagine why cities haven't done this. There's a fair amount of risk with that process. Those of us who have been doing this for a few years all have stories of the homeless family who has now built their home, the home is finished, and they can't get in their home because the public improvements aren't done. That's what we want to avoid. We've been very careful about writing language to make sure that happens.

The things that were important to us as we wrote the changes before you – we need financial security or surety that that won't happen – that we have a bond from the developer that if, for whatever reason, the developer's finances go bad or something happens, that the City can intervene and finish those public improvements at their cost. We want to make sure that there are no Certificates of Occupancy issued for any of those homes until all of the public improvements are complete. We want to make sure that we maintain our high quality of public improvements – we don't want to give up anything on our high standards for streets and drainage and utility systems. Public safety is a key issue here; we've got to have a working fire

protection system. Just because the homes aren't occupied doesn't mean we don't have lots of people and people in harm's way – contractors and others who we need to get that ambulance to them. We need to be able to put out the fire if there is a fire. So those things have to be maintained. And, finally – and this is unique to Norman – most of you know this about our standards, but we are I think still the only city in Oklahoma that requires a certified engineered grading plan for every residential subdivision. I will tell you this policy predates me a number of years, but it is a terrific policy and it has worked very well. In other words, we require every residential subdivision to have an engineered plan – lot by lot – corner by corner – and then we have a paid staff member who inspects every single-family home twice – once when the foundation is ready to be placed, to make sure that each of those corners are graded properly, and then finally the second time before the Certificate of Occupancy is issued. It has worked very well. I think we have the support of the development community, and we certainly have the support of our homeowners, who don't have those nuisance problems – they don't have flooding of their homes – they don't have problems with their neighbors in terms of grading and that sort of thing. So it has worked very well. We want to make sure we retain that.

I'm going to spare you – this group, I know, understands the details. I'm going to spare you my example here. I'd like to get to the provisions. I would be happy to go back to that, if you wish. So the provisions of this ordinance before you: it says that the final plat would be filed upon "substantial completion" – that's important, because we've now defined "substantial completion" here as to full completion of water and sewer. So that sort of gets to that public safety issue. The entire water system, fire protection system, and sewer system is in, certified, as-built drawings are complete. All of that is finished. What may not be finished would be the streets and the storm drainage system. I'll give you an example of that. Many of our residential streets are asphalt streets with concrete curb and gutter. A typical substantial completion would be the concrete curb and gutter would be completed, but only the base course of the asphalt – the lower 4"; the upper 2" might not be finished. That would be substantial completion. Hard surface road – weatherproof road, but not finished. Storm drainage – obviously the system has to work – the water has to go away. It has to get away from the lots, but they might not have done the final grading of the detention basin. They might not have that concrete flume fully finished in the ditch and that sort of things. There would be some things, perhaps, not quite finished. But that said, upon substantial completion, the final plat could be filed and, of course, the developer could begin selling the lots. And that's, of course, their first order of business. Once a lot is sold, they could begin obtaining building permits, and that's a second interest from the development community. They want to sell the lot, they want to get their building permit started. So that would allow them to do that. Again, no Certificate of Occupancy until the public improvements are complete, so at that point you've issued a building permit. Typical house takes four to six months to complete. The race is on. We've got to finish those public improvements simultaneously or concurrently with the private development, and so that would be what would be happening. They might be paving that final course of asphalt while those first few homes are under construction, but no CO until all of it is complete and certified.

The financial security or surety would be unique to our ordinance. We found in those other examples in Oklahoma City, Moore, and Midwest City a fairly strenuous element of their ordinance which requires full bonding of all public improvements, whether they are partially complete or not. We think that's over-reaching. We backed it off and said only surety for the remaining portions – so the remaining 2" of asphalt or the remaining final grading of the channel or the ditch or whatever might be done. The things that are already done – they shouldn't have to bond those any further. So I think we were very generous in that respect. The grading plans must be complete and filed upon the final plat filing; we're not willing to give that one up. That one is very important to us. And then, of course, the high quality of those public improvements would be retained.

That is really what is before you. Your staff supports it. We're very comfortable with this. We think we've taken as much risk as we can out of it and, at the same time, met the spirit of

the development community and I think all parties that have developed this for you tonight are pretty comfortable with what we're bringing forward. I'd be happy to answer any questions.

2. Mr. Boeck – Talking about substantial completion with the base course in there. I think about concrete trucks running across that, and those concrete trucks are heavy. I know you're getting a bond for insuring that things are done and quality is kept. How are you anticipating minimizing that kind of – and then the other thing is you've got guys out there driving trucks – there's enough mud in a new subdivision from all the subcontractors and suppliers that are running up and down off the curb into the lots where the houses are being built when the streets are already done and then they drive back out on the street and leave mud everywhere. So how did you minimize or placate yourselves to feeling like there wasn't going to be issues with all those kind of things?

Mr. O'Leary – Great question and we've had that question before. First, I would tell you that the base course or 4" asphalt base course for a street generally has the load carrying capacity for most of those loadings of concrete trucks and that sort of thing. But the key provision here is that the City has not accepted any of that, so the developer is completely responsible for any failures of that pavement, the subgrade, any dirt and mud removal. We have not accepted any of it. So the developer really is taking all the risk here. In fact, we sort of like the idea of finding those soft spots in the pavement. If they haven't done that base course properly, they'll help us find that problem before we have accepted it. So we think, really, the way this is written the burden falls completely to the private developer and not to the City.

3. Ms. Hartley – Do you have an idea of how much time this saves for the developer?

Mr. O'Leary – It's going to vary based upon developer and development. Each of them has a different way of conducting business. But we have heard reference to 90 days – 120 days sometimes – that there is a delay – and it's a number of things that is causing that, certainly not just the City process. So certainly it could be 90 to 120 days of savings. And, of course, time is money in their world when they are holding the financial obligation for multiple acres and multiple lots. That's the kind of thing that I've heard and that's the best answer I have for you.

4. Mr. Knotts – I've had some experience with bonds and I don't think they're worth the paper they're written on. Do you have some kind of experience that makes you feel like they're actually collectible?

Mr. O'Leary – That's a great question. I might have to yield to our attorneys here, but fortunately I would say in my career I've had to call very few bonds. I have had to do that and, you're right, it's not much fun. But we feel very comfortable with the surety bond language that we use here and our ability to collect if we had to. Can't say that I can speak to the legal side of that, but I believe that we've got a good system and it will fly well for this application as well.

Mr. Knotts – Your description as "not much fun" really didn't – I mean, I found them uncollectible. They're sure they don't want to pay.

Mr. O'Leary – I've never not been able to collect. Certainly it is challenge sometimes, and it is a litigious process. I guess the other thing here I would say is there is always going to be the motivation certainly from some element of that development team – whether it is the developer, the banker, the financier, or ultimately the homeowner – those who want to get into their home and enjoy their new subdivision – so I think 99.9% of the times that will not be the case and these things will work out. But on that rare occasion we do believe the surety bond will be effective.

Mr. Knotts – So the follow-on is that this is intended to be an expediting change, but sometimes it doesn't happen. I mean the development is stretched out. I was wondering if there could be some kind of provision that upgraded the surety bond based on inflation based on time – because if we see a spike in anything, all of a sudden asphalt prices are huge and concrete and all of that.

Mr. O'Leary – I should have mentioned, the surety bond requirement is 125% here in this ordinance of the estimated amount of the remaining work. So the engineer for the developer

would actually estimate the cost of the remaining work, our engineers would review and certify that, and then they would issue a bond for 125% of that amount.

Mr. Knotts – I have similar situations of doubt that come from engineers' estimates, so what I would like to possibly request is that the estimate can be the working number, but that the surety bond be based on actual bids – because there may be some miscalculation there.

Mr. O'Leary – I appreciate that. Be happy to do some follow-up on that. I should mention, too, this is scheduled to go for first reading to City Council next Tuesday – second reading and the hearing two weeks later, so we've got some time to do some more homework on the bonds and that concept could easily be inserted.

5. Ms. Gordon – Do you anticipate any potential issues with the word "substantial"? That there might be a disagreement between what a developer considers substantial and what the City might consider substantial?

Mr. O'Leary – That's a great question. We've had quite a debate about that. We think we've got this pinned down pretty well in the language. Of course, there's always room for interpretation, and I think that could happen. But I think, first of all, the way we've defined full completion of utilities sends a pretty clear message, and I've got to give credit to our private partners. That was something that most concurrent construction policies do not do. So I think that's a key element of this. Then we actually define base course and so on relative to the streets. You know, frankly, and this goes back to one of the other questions, we really don't think very many developers will really do it this way. We actually think what they're going to do is to finish the full pavement, not have that exposure that we mentioned earlier, and all they're doing is expediting the process of filing the plat. We don't believe they're willing to take on that risk or that obligation and there really is a small handful of developers here in Norman who have the means to do this at all, frankly. So I really don't think we're going to practically face that issue.

**COMMENTS FROM THE AUDIENCE:**

None

**DISCUSSION AND ACTION BY THE PLANNING COMMISSION:**

*Jim Gasaway moved to recommend approval of Ordinance No. O-1112-30 to the City Council.  
Dave Boeck seconded the motion.*

There being no further discussion, a vote on the motion was taken with the following result:

YEAS	Dave Boeck, Jim Gasaway, Cynthia Gordon, Diana Hartley, Tom Knotts, Chris Lewis
NAYES	None
ABSENT	Curtis McCarty, Roberta Pailles, Andy Sherrer

Ms. Tromble announced that the motion to recommend approval of Ordinance No. O-1112-30 to the City Council, passed by a vote of 6-0.

\* \* \*



Item No. 11, being:

**O-1112-32 – AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING CHAPTER 18 OF THE CODE OF THE CITY OF NORMAN TO ADD PROVISIONS TO ALLOW DIGITAL OFF-PREMISE SIGNS (BILLBOARDS) IN SECTIONS 18-303, 18-402, 18-601, AND 18-801; AND PROVIDING FOR THE SEVERABILITY THEREOF.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Staff Report
2. Proposed Language – Electronic Digital Signs

**PRESENTATION BY STAFF:**

1. Mr. Kosciński – Norman's sign ordinance goes back to 1979, and since that time the ordinance has prohibited signs with actual physical movement or electronic movement. Since that time we have prohibited movement in signs as being a little too distracting. Jump ahead 20 years. We've got a major distraction – digital signs – electronic signs, essentially. In 2007 the Federal Highway Administration agreed in principle with that approach, which is the same thing that is reflected in our ordinance, but did acknowledge that the technology has changed. So they issued a Memorandum of Understanding that allowed billboards to become the ones that are in front of you tonight, which is essentially a static billboard that displays for a certain period of time and then changes to another static display. That static display is what is key to the Federal Highway Administration's ruling. They didn't permit, nor would this ordinance permit, moving signs or dancing signs or movies on signs – things like that that would truly be more distracting than simply the flash or some of the things that we historically would have thought about 20 or 30 years ago. So the ordinance was brought forward from some representatives of the billboard industry, who petitioned the Business and Community Affairs Committee, who asked us to draft the language that is in front of you tonight. We've had a couple of meetings with those gentlemen. We had a couple of meetings with the Business and Community Affairs group and the ordinance that is in front of you is kind of the culmination of that work.

I'm going to go through some of the major points of the ordinance. Movement is still not permitted; it still must be a static image. We checked with FHWA – Federal Highway Administration – and many other communities on what they call the dwell time – how long the sign has to stay static – pretty much 8 seconds, so we wrote that into the ordinance. Some cities tried to be extremely restrictive in that regard and went to 1 hour. I saw one ordinance with 1 hour change, which pretty much is not changeable. I'm going to skip lighting levels for a minute and I'll come back to it. Technology requires that there be some kind of light sensor so when the daylight conditions change to a dark sky or storm comes through, or certainly at night, light levels automatically change to compensate for that. That same sort of technology has to be incorporated into the sign so that if something happens to it it doesn't just flash purple glow – it becomes a single static image until they can come back and fix it. Most of these are remotely controlled; they're done by computer from a distance and that's why the industry is extremely interested in these – they don't have to pay a crew to bring ladders and paint up a new sign. If that sign is not working we can get you another one. The ordinance that was proposed, and we reflect it in our draft language here, is there is a potential negative impact from either the visibility or the brightness of these signs. There's a 200' separation from a sign to any residential zoned property. Code does allow that existing billboards can be converted. The ones along the interstate are the only ones addressed in this particular ordinance. Many of our signs, over time, have become non-conforming. When Norman first adopted language regulating billboards it related the size of the sign to the number of signs, the number of faces of signs, and all that got changed in about 2002 when the State adopted different methodology and essentially said 1000' separation and up to whatever the maximum was allowed. Our ordinance was changed at that time to echo the State requirement, and so the 1000' separation, which is the current requirement, rendered many of our existing billboards non-conforming because they were built when 500' was the number that we often used. So we have a lot of non-conformities there as far as separation. So we've dealt with that in this ordinance. Essentially, there are four sections of this ordinance. The non-conforming section says that, if that's the only problem that

there's a separation requirement, then the digital billboard could still be either installed or converted, but the next digital billboard would have to abide by the 1000' separation. So the first guy gets kind of a break; the second guy has to start falling in, so that way we should not have a proliferation of too many of these digital billboards, because, in theory, they must be at least 1000' apart. All of our other sign regulations are still in place. We still have a certain zoning requirement, separation from other residential uses, things like that, and so all of that language stays the same. This is a section that is really trying to just deal with the digital aspect of billboards. Obviously, new digital billboards could also be built, just like any other billboard could be built.

Let me go back to lighting. When the industry drafted a sample ordinance for us, we did some research and there are some communities that feel that brightness is one of the key issues. Obviously, motion is another one, and we dealt with that. Brightness is probably one of the remaining issues that cities have with some of these billboards. FHWA does not have any standard for that, so most of the State language doesn't address brightness at all, so it is incumbent on the municipality, if they wish to regulate it, to impose those standards. The industry had originally asked for 6500 NITs – and I'll explain that in a second – during the daytime and 500 NITs at night. The draft that comes to you tonight has 5000 daytime, 300 at night. For reference, a well-lit existing billboard is probably about 100 NITs. A NIT is 1 candela per square meter. So all that lumens per square foot stuff that we dealt with for the last year is over there and this is a whole new way of measuring it, and I don't have a tool to measure it. It's an expensive meter. It's a different technology and it doesn't convert, because one is rating the light that hits you and the other is the light of the mechanism itself – completely different methodology. We proposed 5000 and 500. One of the representatives of the billboard industry – and he is here tonight – has access to one of those meters and they evaluated some of their own signs and what their comment was tonight – and it was just this evening, so I'm kind of catching up here – 500 is, in their opinion, an appropriate number when you're in a well-lit area. If your billboard is out in the middle of a field and there's nothing but cows around it, 300 is more than enough. So, as a compromise, I would suggest we draft language that says exactly that – that 500 would be permissible if you're abutting other commercial or industrial users, because we have some light levels at that – but if there's no commercial or industrial next to it – we have a lot of these that are near vacant land or near agricultural land – and 300 is an appropriate light level there so we don't get bright signs everywhere. So we'll probably try to craft that exact language for you, but that's the approach I think staff is going to recommend at this point is that we try to slide down the middle of those numbers. You are really the first public agency to see this ordinance, other than the representatives from the industry themselves and the business community.

2. Mr. Lewis asked what the NIT level was at the Oklahoma City or Moore signs. Mr. Koscinski responded that he didn't know which signs Mr. Tyler measured. Moore's signs came about because they did not regulate them. They were allowed by the State as a change to their billboards and they are in the process of trying to deal with that. Oklahoma City and Tulsa both allow them. I don't remember what Oklahoma City's levels are, but I think Tulsa's are reflected in what the industry asked for.

3. Mr. Boeck asked if this ordinance includes any store front signs or shopping center signs. Mr. Koscinski responded that this ordinance simply deals with the billboards along I-35, which is all the current ordinance provides for. We have some pre-existing, non-conforming billboards throughout the community. The industry has been trying to get the ordinance changed to allow those to be converted as well. That is not on tonight's agenda, nor are on-premise business signs addressed tonight. The Business Affairs Committee is still discussing those two topics.

#### **COMMENTS FROM THE AUDIENCE:**

1. Tony Tyler, 4211 Rolling Meadows Place, was available to answer questions.

2. Mr. Lewis said he was noticing some of the signs in Oklahoma City today, and noticing the brightness of signs last night. Do we have a benchmark of where those levels are throughout Oklahoma City and throughout the metropolitan area? Mr. Tyler said he can try and get that information. He knows the level their signs are set at. We have two signs in Bricktown. I don't know what they are during the daytime, but the nighttime setting is at 250. Mr. Lewis commented that it sounds like their signs would comply with what the ordinance is proposing. Mr. Tyler said that is correct. The difference between 500 and 300 is not necessarily significant unless it's in a well-lit area or it's too far from the road. He has a good suggestion on how to manage that. Mr. Lewis commented that one of the things he found today, when it was cloudy and raining, he found the board more distracting because he couldn't really see it. Mr. Tyler said that is a great observation and is one of the reasons the industry encourages a slightly higher lower level than the 300.

**DISCUSSION AND ACTION BY THE PLANNING COMMISSION:**

*Diana Hartley moved to recommend approval of Ordinance No. O-1112-32 to the City Council. Dave Boeck seconded the motion.*

There being no further discussion, a vote on the motion was taken with the following result:

YEAS	Dave Boeck, Jim Gasaway, Cynthia Gordon, Diana Hartley, Tom Knotts, Chris Lewis
NAYES	None
ABSENT	Curtis McCarty, Roberta Pailles, Andy Sherrer

Ms. Tromble announced that the motion to recommend approval of Ordinance No. O-1112-30 to the City Council, passed by a vote of 6-0.

\* \* \*

Item No. 12, being:

**O-1112-33 – AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING CHAPTER 22 (ZONING ORDINANCE) OF THE CODE OF THE CITY OF NORMAN TO CLARIFY USE AND FENCING RESTRICTIONS FOR JUNK OR SALVAGE YARDS IN THE I-2, HEAVY INDUSTRIAL DISTRICT, IN SECTION 427.1; AND PROVIDING FOR THE SEVERABILITY THEREOF.**

**ITEMS SUBMITTED FOR THE RECORD:**

1. Staff Report
2. Proposed Ordinance Language

**PRESENTATION BY STAFF:**

1. Mr. Koscinski – This is somewhat of a housekeeping measure, and it is the City trying to catch up with all the different ordinances that we have. You really only deal with a couple of the chapters, but there are 20 other chapters. There are licensing people that are issuing an annual license to junk yards, impoundment yards, and a variety of other uses. Chapter 13 says a complete perimeter fence. Chapter 22 has some exceptions. Those were written 30 years ago and no one had cross-referenced those. We have taken Chapter 13, which is the licensing section, and simply deleted all references to fencing, except that Chapter 22 should regulate them. We have really minimized Chapter 13; that's not the ordinance in front of you, but that's where this started. Tonight the two amendments are to Chapter 22 and they're both the I-1 and the I-2 sections. I-1 is not a junk yard section; I-1 allows impoundment yards, and those are facilities where, if you wreck your car, they'll go and tow it there and impound it until the insurance pays it or you come to claim it. If you were a drunk driver, for instance, your car would be in an impoundment yard. So they're temporary storage until you reclaim. In some instances, you never reclaim it. Insurance company writes it off and says it's a total loss. What the guy does at that point – or what we discovered that he's now doing – is crushing them and storing them in the back. To save space, they started stacking them. So we had an issue with people saying that looks like a junk yard and there's no fencing. So we've added a section that says that you can't store anything above the fence into the I-1 section. That language already exists for junk yards in the I-2, but we had not known that to be a problem in I-1.

I-2 is where the actual junk yards are allowed, and there are some fencing requirements there. Those are not being changed. That's where they are and that's where they should remain. The only thing we did do is we did take the opportunity – Chapter 18 already regulates signs and there was a holdover section for junk yards and salvage cities, of which we have none, and so we deleted all the sign references in Chapter 22 on the I-2 section. That's really what's in front of you tonight is just a clarification of where our fence requirements ought to be and what they should say.

2. Mr. Boeck noticed the reference to wood fences was deleted. Mr. Koscinski clarified that the fence requirements are still in I-2. We deleted the Chapter 13 reference so that everything is in one place. We did delete the requirement that it be a redwood fence; we thought that would be burdensome for a junk yard.

**COMMENTS FROM THE AUDIENCE:**

None

**DISCUSSION AND ACTION BY THE PLANNING COMMISSION:**

*Jim Gasaway moved to recommend approval of Ordinance No. O-1112-33 to the City Council. Tom Knotts seconded the motion.*

There being no further discussion, a vote on the motion was taken with the following result:

YEAS

Dave Boeck, Jim Gasaway, Cynthia Gordon, Diana Hartley,  
Tom Knotts, Chris Lewis

NAYES

None

ABSENT

Curtis McCarty, Roberta Pailles, Andy Sherrer

Ms. Tromble announced that the motion to recommend approval of Ordinance No. O-1112-33 to the City Council, passed by a vote of 6-0.

\* \* \*

Item No. 13, being:

**MISCELLANEOUS DISCUSSION**

1. Ms. Connors reminded Commissioners of the email they received earlier in the week about the public meeting for the Lindsey Street widening project which will be March 15 at 6:00 p.m. at Sooner Legends. All are welcome to attend to find out more about the project.

2. Ms. Connors announced that the Greenbelt Commission will be meeting on March 19 and one of the Commissioners is going to present some best practices regarding landscaping and trail development. She invited everyone to attend that presentation.

3. Mr. Koscinski reported that a City Council member had requested that staff do some research on the impact of apartments on things such as property values, traffic, etc. Ms. Hudson pulled together several very good articles and we will email that information to the Commission because they address concerns that we often hear from the community. There are studies that have been done that quantify some of the impacts.

Mr. Boeck commented that right after the vote on the Oakhurst property he saw an article in the paper talking about an MIT study that showed that apartment buildings did not decrease the value of residential neighborhoods in the area.

Mr. Koscinski added that was the finding that most of these studies point to. If it is a vacant field, of course the traffic is going to increase; one home will increase the traffic. But traffic impacts are not as severe as people perceive.

4. Harold Heiple, 218 East Eufaula – In recent Planning Commission meetings, I have raised the desire of the business community that some of the sections in the Subdivision Regulations be considered to be outside the purview of the Planning Commission. Our goal is to remove one month from the current time required to go through the City of Norman zoning pipeline. With respect to the concurrent construction ordinance that you recommended for approval tonight, after we got the proposed language put together in late January, Mr. O'Leary reported that they were headed for a meeting with the City Manager and estimated that from there it would go to the City Council and that the City Council would do their first reading on the 14<sup>th</sup> of February and final reading by the Council on the 28<sup>th</sup> of February. After the meeting with the City Manager, of course it was pointed out that under current ordinances and current regulations, that this is a Subdivision Regulation and any amendment has to come through the Planning Commission. So that's why it was here tonight. I respectfully suggest that the concurrent construction ordinance that was before you tonight has absolutely nothing to do with land use or land planning. I don't believe it was within the purview of the Planning Commission. This is the kind of thing that we're asking be taken out of the pipeline simply to save a month, because had we not been to this group, we would have an enacted ordinance by this time in all likelihood. Repeating what I've said before – we have no desire to take away from the Planning Commission anything that's within the legitimate purview of this organization. But they don't ask you to write Fire or Police regulations and any other sort of unrelated ordinances, and I just suggest, and keep repeating, that we believe that there are a number of sections in the Subdivision Regulations that really are not appropriate to have to come before the Planning Commission for amendment. So we'll keep pushing on that particular point. Thank you.

Mr. Boeck – I'll make the same comment I made the first time you came up and said that. It's like taking chapters out of the Bible that are part of the Bible that are all regulated in there showing the story. What we talked about tonight, in my mind, is part of zoning and property use – whether it has to do with timing or whether it has to do with proper use of this stuff. I'll keep telling you that I think what you're asking to take out takes away from the whole process of what the Planning Commission is all about.

Mr. Heiple – Then should we put in speed regulations from the criminal code for the Planning Commission through the neighborhoods?

Mr. Boeck – Speed regulations? It's not the same thing.

\* \* \*

## ADJOURNMENT

  
Norman Planning Commission